IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 449 of 1983
TO
FIRST APPEAL No. 453 of 1983

WITH

FIRST APPEAL No. 455 of 1983

WITH

FIRST APPEAL No. 604 of 1983

WITH

FIRST APPEAL No. 454 of 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE A.L.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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POPATLAL MANSHUKHRAM & 1 - Appellant(s)

Versus

SPECIAL LAND ACQUISITION OFFICER - Defendant(s)

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Appearance :

MR BG PATEL for Appellant(s) : 1 - 2.
MR.R.M.CHAUHAN, ASST.GOVERNMENT PLEADER for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE A.L.DAVE

Date : 28/12/2005

ORAL JUDGMENT

This common judgment shall cover disposal of these appeals arising out of the judgment and award rendered by the District Judge, Sabarkantha, Himmatnagar in Land Acquisition Cases No.57, 63, 69, 136, 139 and 145 of 1978, rendered on 31/3/1982.

2.The Executive Engineer, Dharoi Rehabilitation and Canal Investigation Division, Himatnagar proposed acquisition of village site land coming under submergence due to Sabarmati Reservoir Project. Pursuant thereto a notification under Section 4 of the Land Acquisition Act, was published on 22/12/1972 followed by notification under Section 6 on 17/9/1973, in respect of the lands of village Champalpur of Khedbrahma Taluka Sabarkantha District. The Special Land Acquisition Officer, Dharoi Project after considering claims of the land owners awarded compensation at different rates for different categories of properties which can be stated as under.

1)Old tenure land, Rs.4/- per square meter.

2)New tenure land, Rs.3.50 Paise per square meter.

3)Khunta Mapani land, Rs.3.50 Paise per square meter.

4)Wada land, Rs.0.45 Paise per square meter.

3.So far as the structures were concerned, the Special Land Acquisition Officer relied upon and accepted the valuation made by the Executive Engineer in his report. The land owners had claimed compensation at the rate of Rs.32/- per square meters of land.

4.Aggrieved by the said judgment and award, present appeals are preferred.

5.Learned Advocate, Mr.B.G.Patel, appearing for the appellants submitted that in respect of lands of same village for same project acquired in same vicinity of time, compensation has been awarded by a Division Bench of this Court @ Rs.20/- per square yards (Rs.24/- per square meter) in respect of house site land, while dismissing the appeal preferred by the State and accepting the appeals of the land owners. He has placed before this Court a certified xerox copy of judgment passed in First Appeal No.1394 of 1980 and allied matters, disposed of by the common judgment on 15/9/1983 (Coram: M.B.Shah and J.M.Panchal, JJ.). Learned Advocate, Mr.Patel, submitted that the appellants do not press for enhancement in respect of compensation awarded by the Reference court, in respect

of other categories of land than the residential lands.

6. On going through the judgment, it is noticed that that was a case where the lands were acquired for Sabarmati Reservoir Project of this very village which went into submergence. The notification under Section 4 was published on 4/1/1973 and the notification under Section 6 was published on 17/9/1973 (the same date on which notification in this case was published).

7. The appeals are opposed by learned Asst. Government Pleader, Mr.R.M.Chauhan.

8. Having gone through the impugned judgment, as well as the judgment of Division Bench of this Court; relied upon by Mr.Patel for the appellant, it is clear that the acquisition of land is in respect of same village for same project and in same vicinity of time. The entire village went into submergence and, therefore, the view taken by the Division Bench in that matter, in absence of any material for taking a different view, is binding to this Court. The Division Bench in paragraph No.16 of the judgment, relied upon a document before it which indicated that price of the house site land was Rs.20/- per square yard in October, 1968. The Bench

also noticed that the notification for acquiring the land in question was published on January 4, 1973 i.e. after about 5 years. Taking a cognizance that with passage of time, the prices of house site land do increase, a view was taken that it would be just and proper to award compensation at Rs.20/- per square yard i.e. Rs.24/- per square meter of house site land.

9.From record, it is found that residential land of old tenure category is acquired in each such cases, which can be tabulated as under.

First Appeal No.	L.R.No.	House No.	Area of land	Category	Type of land
449 of 1983	57/78	3/133	0-00-64	Residential	O.T.
450 of 1983	63/78	4/4 to 4/6	0-02-22	Residential	O.T.
451 of 1983	69/78	4/3	0-01-35	Residential	O.T.
452 of 1983	136/78	2/97	0-00-39	Residential	O.T.
453 of 1983	139/78	2/96	0-00-39	Residential	O.T.
455 of 1983	145/78	4/12 to 4/15	0-01-08	Residential	O.T.

10.It is thus clear that the above pieces of lands are lands for house purpose or residential pieces of land, in respect of which compensation @ Rs.7/- is awarded by the Reference Court treating them as old tenure lands. Now, by virtue of the decision rendered by the Division

Bench referred to above, the compensation that will have to be awarded would be @ Rs.20/- per square yard i.e. Rs.24/- per square meters of lands. The appeals, therefore, will have to be allowed to that extent. There would be proportionate change in amount of solatium as well.

11.A contention is raised by learned Advocate, Mr.Patel, that the Reference Court has not awarded interest on amount of solatium and now, as per law settled by the Apex Court in case of **Sundar Vs. Union of India, reported in 2001 (3) G.L.H. 446** that the appellant would be entitled to interest on solatium as well. This contention deserves to be allowed as the Apex Court has in terms held that the interest is payable on aggregate amount of solatium including solatium.

12.First Appeals No.449, 450, 451, 452, 453 and 455 of 1983 are accordingly partly allowed. The amount of compensation receivable by the appellants and payable by the respondents would be @ Rs.20/- per square yard or Rs.24/- per square meter in respect of residential old tenure lands as indicated in the table above, alongwith proportionate increase in the solatium. The

appellant would also be entitled to interest on the amount of solatium as well, @ 9% for the first year and thereafter @ 15% till the payment is made. There shall be no order as to costs.

13.So far as First Appeals No.454 and 604 of 1983 are concerned, there appears not any house site land acquired for the project and since the appeals are pressed only in respect of compensation awarded on house site land only, this appeal must fail and stands dismissed with costs.

(A.L.DAVE, J.)

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